

Planning Proposal

Proposed rezoning of 'Site H' at Pasminco Cockle Creek Smelter Pty Ltd

Draft Amendment to Lake Macquarie Local Environment Plan 2014

Pre- Gateway Version

| | |
|----------------------------------|---|
| Local Government Area: | Lake Macquarie City Council (LMCC) |
| Name of Draft LEP: | Lake Macquarie Local Environment Plan 2014 |
| Subject Land: | Part of 2A Main Road, Boolaroo (Lot 599 DP 1228699) |
| Land Owner: | Pasminco Cockle Creek Smelter Pty Ltd |
| Applicant: | Lake Macquarie City Council (LMCC) |
| Council Reference Number: | RZ/8/2017 |
| Document Date: | 6 June 2018 |
| Document Author: | Kent Plasto - Strategic Planner |

| Map No. | Details |
|---------|--|
| 1 | Locality |
| 2 | Arial Photo and Existing Land Zone LMLEP2014 |
| 3 | Proposed Land Zone |
| 4 | Existing Height of Building |
| 5 | Proposed Height of Building |

Table of Contents

| | |
|---|-----------|
| Part 1 – OBJECTIVES OR INTENDED OUTCOMES | 3 |
| Part 2 – EXPLANATION OF PROVISIONS | 3 |
| Part 3 – JUSTIFICATION | 3 |
| Part 4 - MAPPING | 12 |
| Map 1- Locality Map | 12 |
| Map 2- Aerial Photograph and Existing Land Zoning Map | 13 |
| Map 3- Proposed Land Zoning Map | 13 |
| Map 4- Existing Height of Building Map | 13 |
| Map 5- Proposed Height of Building Map | 14 |
| Part 5 – COMMUNITY CONSULTATION | 15 |
| PART 6 – PROJECT TIMELINE | 15 |

Part 1 – OBJECTIVES OR INTENDED OUTCOMES

1. Background

The original Containment Cell Concept Master Plan for the former Pasminco site included Site H as part of the site's remediation management plan (which was the subject of a major projects approval in 2009). Subsequently, Site H was zoned SP1 Hazardous Storage Establishment however, following completion of the Containment Cell, it was realised that the site was not required for the containment cell or its on-going management.

As a result, the proponent has approached Council to rezone Site H to allow for urban development. Council previously advised the proponent that the planning proposal does not provide clear evidence that the land is not required for the containment cell. Council staff were advised by the proponent that the Containment Cell Environmental Management Plan (CCEMP) is currently with the Department of Planning and Environment (DoPE) and the Environmental Protection Authority (EPA) for assessment. The CCEMP outlines the appropriate environmental management of the Containment Cell in perpetuity.

Following this, the proponent provided a site contamination audit for Site H (Appendix 1) showing that the site has been remediated in accordance with the Remedial Action Plan for the PCCS site to a standard suitable for:

- Residences with accessible soil including gardens (with minimal home-grown produce contributing less than 10% fruit and vegetable intake and excluding poultry),
- Day care centre, preschool, primary school,
- Residences with minimal soil access (including units),
- Secondary schools,
- Parks and open space, and
- Commercial / industrial uses.

The proponent has requested that LMCC progress the rezoning of Site H concurrently with the approval of the CCEMP. The Planning Proposal will not be exhibited to the public until DP&E and EPA have approved the CCEMP and a site auditor has approved the CCEMP.

2. Objectives

The Planning Proposal seeks to amend the *Lake Macquarie Local Environmental Plan (LMLEP) 2014* to rezone the subject site (approximately 7, 380m²) from SP1 Hazardous Storage Establishment- Containment Cell to B4 Mixed use to enable urban development.

Part 2 – EXPLANATION OF PROVISIONS

The provisions in this planning proposal will amend LMLEP 2014 as outlined below:

- Amend the land use zone applying to the subject land from SP1 Hazardous Storage Establishment- Containment Cell to B4 Mixed Use
- Amend the Height of Building Map from 8.5 metres to 13 metres
- Add site H to the Key Sites Map

Part 3 – JUSTIFICATION

Section A – Need for the Planning Proposal

1. *Is the planning proposal a result of any strategic study or report?*

The broad underlying land use strategy for the Pasminco Cockle Creek Site (PCCS) is that the remediated areas would be available/used for future urban development. While site H is not the result of a specific strategic study or report, the PCCS site (which includes Site H) has a number of strategic studies and reports. Site H is considered to be consistent with the PCCS master plan.

Following the construction of the containment cell, it was realised that Site H is not required for the containment cell or its ongoing operations. The remediation of Site H to a residential and commercial/industrial standard provides the opportunity to develop Site H.

Site H's primary role has been to manage issues associated with the physical construction of the containment cell including surface water and excavated materials. Following the completion of the containment cell, site H is no longer required to manage issues associated with the physical construction of the containment cell or its ongoing operation.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes. A planning proposal is the best means of achieving the objectives and intended outcomes as the current land use zone does not permit urban development. Rezoning the subject site from SP1 to B4 will encourage infill development that is consistent with the objectives of the PCCS master plan and adjacent land use zones.

Section B – Relationship to Strategic Planning Framework

1. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Hunter Regional Plan 2036

The Planning Proposal is considered consistent with the HRP 2036. The primary purpose of the Hunter Regional Plan (HRP) 2036 is to cater for the future development of the region ensuring that adequate land is available and appropriately located to accommodate the region's growing population and employment needs. The Hunter Regional Plan specifically identifies within the Local Government Narrative for Lake Macquarie, the need to:

Deliver and maximise the potential of urban infill opportunities at the Pasminco redevelopment area in Boolaroo.

The following comments address directions in the HRP 2036:

The proposed site is part of the larger PCCS site identified in the HRP as existing residential and employment lands. The PCCS site and site H, have good access to public transport in the form of bus routes, which run along Lake road and Main road, as well as Cockle Creek Station.

The planning proposal will supply additional land for urban infill development within 2km of the emerging Cardiff-Glendale regional centre. Infill development will assist in creating a compact settlement as well as decreasing LMCC's pressure for 'urban sprawl'.

The planning proposal identifies the subject site as unnecessary with regard to the previous planned use as SP1 and proposes retail use that is consistent with surrounding and adjacent mixed use. Clustering development with consistent uses in this way will increase the employment population and economic potential in the area.

The planning proposal will result in the indicative off road cycleway shown in the DCP Area Plan being replaced with B4 development. The cycleway is an important active transport link connecting planned residential development on the east part of the PCCS site to Cockle Creek Railway Station. An alternative route has been identified on the north side of Road 1, connecting Main Road and Munibung Road (DA/2156/2017 and SCC/99/2017). This route is a satisfactory outcome in place of the deleted east west indicative off road cycleway route.

2. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

Lake Macquarie City Community Strategic Plan 2017-2027

The Lake Macquarie City Community Strategic Plan 2017-2027 has been developed with the people of Lake Macquarie. The strategy outlines both vision and values for the community and provides strategic framework to achieve this.

The Community Strategic Plan recognises the importance of a diverse economy as a key aspect in the sustainable growth of the Local Government Area.

The Planning Proposal is consistent with this as it is likely to increase retail potential and commercial floor space in Boolaroo, which will enable greater urban development in the area.

Lifestyle 2030 Strategy (LS2030)

The Lifestyle 2030 Strategy (LS2030) provides the long-term direction for the overall development of the City. It is a long-term strategic land use plan and policy document. The Strategic Directions identified in LS2030 describe the desired outcomes and general intentions sought by Council for future development in the City.

LS2030 identifies the PCCS site as an important contributor to urban development in Lake Macquarie. LS2030 identifies that the redevelopment of the former PCCS site will provide an opportunity for large scale urban development and support the neighbourhood centre of Boolaroo by increasing employment opportunities and potential additional retail activity.

The Planning Proposal's consistency with LS2030 is discussed in response to the following applicable aspects of the strategic directions:

Strategic Direction 1: A city responsive to the environment

The planning proposal is consistent with this direction as it repurposes existing urban land and proposes a mixed use zone that is consistent with surrounding and adjacent development. The proposal will alleviate stresses on the environment by utilising the opportunity for infill development and fostering the compact settlement.

Strategic Direction 2: A city that makes an equitable contribution to global sustainability

The planning proposal is effective in locating development in close proximity to existing infrastructure, services and consistent uses. This is an efficient use of resources that will decrease Lake Macquarie's ecological footprint and foster the decline of non-renewable resources.

Strategic Direction 3: A well designed adaptable and liveable city

The planning proposal responds to the liveability of the former PCCS area by providing additional retail and commercial floor space which will support adjoining B4 Mixed Use land in the area.

The Pasminco Precinct Area Plan provides a guide to the redevelopment of the PCCS site. The Area Plan was prepared prior to the completion of the site remediation at PCCS and as such identifies Site H as required for management of the containment cell in perpetuity. However, following the completion of the containment cell, it was realised that site H was not required for this purpose. As such, site H is recognised as a surplus to the needs of the containment cell and has been remediated to satisfy residential Development. Although the existing area plan zones site H as SP1, the proposed commercial/mixed use of the site is consistent with adjoining land uses.

The CCEMP provides risk assessment and actions for cell management in perpetuity. It is recommended that the CCEMP be approved by DoPE, the EPA and auditor before the proposal proceeds to public exhibition.

Replacing the indicative off road cycleway in place of B4 development will decrease opportunity for adaptive transport options for future residents on the east part of the PCCS site. Bicycle travel is an effective transport strategy to decrease social impacts attributed to peak oil, fossil fuel prices and air quality. An alternative route has been identified on the north side of Road 1, connecting Main Road and Munibung Road (D08612584). This route is a satisfactory outcome in place of the deleted east west route.

Strategic Direction 4: A well serviced and equitable city

The Planning Proposal intends to enhance the opportunities for services and businesses within the PCCS redevelopment site. The Planning Proposals consistency with the relevant outcomes is discussed below:

The subject site is located 500m (5 – 6 minute walk) from regular bus services along Main Road, and 700m (8 – 9 minute walk) from regular train services at Cockle Creek train station.

The replacement of the indicative off road cycleway with B4 development will result in increased travel times and a loss of transport amenity as well as recreation potential for active transport users accessing Cockle Creek Railway station from the east side of the PCCS site. As mentioned, an alternative route has been identified.

The proposed B4 zoning will provide opportunity to develop a cluster of consistent uses likely to decrease car trips and relieve stresses on road transport systems as well as associated carbon emissions.

Strategic Direction 5: A City of Progress and Prosperity

The Planning Proposal enables greater urban development that will support retail/commercial development consistent with adjoining B4 zoned land. The proposed rezoning of Site H will contribute to greater investment into the PCCS area and provide employment opportunities for the greater LMCC community.

Strategic Direction 6: A City responsive to the wellbeing of its residents

Outcome 6.15 states; Development is designed to foster a quality and affordable lifestyle, while minimising exposure to future energy, water, and transport cost increases.

The proposal provides an opportunity to expand the adjacent B4 zone and develop a cluster of consistent uses effectively utilising existing services and infrastructure.

Strategic Direction 7: A City that practices participatory democracy and is well governed

The PCCS site and Incitec site planning has been in accordance with relevant State Government planning strategies, policies and plans. The Planning Proposal is consistent with the land use strategic direction for the PCCS site.

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning proposal is consistent with relevant State Environmental Planning Policies (SEPPs), with the exception of the following SEPPs:

- SEPP No 55 - Remediation of Land
- SEPP (Infrastructure)
- SEPP No 71 – Coastal Protection

These inconsistencies are considered to be of minor significance, as outlined in the following table.

Table 5: Consistency with applicable SEPPs

| SEPP | Relevance | Implications |
|-----------------------------------|--|---|
| SEPP 19- Bushland in Urban Areas | The aim of this policy is to protect and preserve bushland within urban areas. | The Planning Proposal is consistent with this direction as the proposal does not intend to disturb bushland zoned or reserved for public open space purposes. |
| SEPP 44- Koala Habitat Protection | The aim of this policy is to encourage the proper conservation and management of areas of natural vegetation for koalas | The SEPP does not apply as the site does not contain any remnants of native bushland. |
| SEPP 55—Remediation of Land | The aim of this policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. | <p>The PCCS and Incitec site is subject to NSW EPA Declaration of Remediation Site No. 21027 dated 10 September 2002 and Remediation Order 23008 dated 1 July 2003.</p> <p>Remediation of the PCCS and Incitec land was approved by the Department of Planning (under delegation of the then Minister for Planning) application number 06_0184 modifications 1-5: The approval is for the remediation of PCCS and Incitec site which includes the construction of a containment cell on the site and the contaminated material being contained within the containment cell.</p> <p>In December 2012 modification 4 allowed the contaminated soil from the Incitec land to be placed into an expanded and amended PCCS containment</p> |

| | | |
|------------------------------|---|---|
| | | <p>cell eliminating the need for the approved Incitec containment cell (08_0221).</p> <p>The Site H Audit Report (Appendix 1) concludes; Site H has been remediated to a standard suitable for residential use. Subject to the assessment of the CCEMP by the DoPE and EPA, the planning proposal is consistent with the provisions of the SEPP.</p> |
| SEPP 71 – Coastal Protection | The aim of this policy is to ensure development is appropriate and suitably located in order to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast | <p>Part of the PCCS site is within the NSW Coastal Protection zone. In addition to other considerations, the SEPP considers increasing opportunities to provide new public access to and along the foreshore for pedestrians or persons with a disability.</p> <p>The proposed development replaces the planned indicative cycleway with B4 uses. The cycleway is an important link in the network providing public access from the east part of the PCCS site and Munibung Hill to Cockle Creek foreshore. An alternative route has been identified.</p> |
| SEPP (Infrastructure) | The aim of this policy is to facilitate the effective delivery of infrastructure across NSW. | The proposed rezoning will allow for the development of shops, commercial premises and certain types of residential on Site H. These are identified to be traffic generating developments under the SEPP. It is recommended that consultation with the RMS occur following the Gateway determination. |

4. *Is the planning proposal consistent with applicable Ministerial Directions (s.9.1) directions)?*

The planning proposal is consistent with relevant Ministerial Directions, with the exception of the following Directions:

- 1.1 Business and Industrial zones
- 4.2 Mine Subsidence and Unstable Land
- 4.4 Planning for Bushfire Protection.

Approval is required from:

- The Secretary of the Department of Planning and Environment regarding Direction 1.1
- Subsidence Advisory NSW regarding Direction 4.2
- The Commissioner of the NSW Rural Fire Service regarding Direction 4.4.

Table 6: Consistency with Ministerial Directions

| Ministerial Direction | Objective/s | Consistency / Comment |
|---|---|---|
| 1.1 Business and Industrial zones | 1) encourage employment growth in suitable locations, 2) protect employment land in business and industrial zones, 3) support the viability of identified strategic centres | The direction applies, as the proposal will result in additional business zoned land. The direction states that new employment areas should be in accordance with a strategy that is approved by the secretary. Although Site H is not the result of a specific strategic study or report, the PCCS site (which includes Site H) has a number of strategic studies and reports as part of the Bunderra Master Plan. Given that site H was originally identified to be used for the containment cell, it is considered that the rezoning is strategically consistent with the Bunderra Master Plan. Despite the planning proposal being inconsistent with this direction, the proposed rezoning is considered to be of minor significance. |
| 1.3 Mining Petroleum Production and Extractive Industries | Ensure the future extraction of state or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development | The direction does not apply as the proposal will not prohibit or restrict existing or potential mining, petroleum production or mineral extractive industries. |
| 2.1 Environment Protection zones | Protect and conserve environmentally sensitive areas | This direction does not apply as the subject site does not contain land within an environmental protection zone or land otherwise identified for environmental protection purposes in the LMLEP. |
| 2.2 Coastal Protection | Implement the principles in the NSW Coastal Policy | The direction applies as the proposed site is identified within the coastal zone. The planning proposal is consistent with the directions -Other parts of the proposal do not alter any LMLEP 2014 provisions relating to the coastal zone. -The LMLEP 2014 provisions are consistent with the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, the Coastal Design Guidelines 2003, the manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 (the NSW Coastline Management Manual 1990). -LMLEP does not identify the site as a coastal risk. |
| 2.3 Heritage Conservation | Conserve items, areas, objects and places of environmental heritage significance and Indigenous heritage significance. | Site H is in the vicinity of the 'old Laboratory building' listed as a local heritage item in LMLEP2014. The planning proposal is consistent with this direction as the proposed rezoning is not recognised to significantly affect the heritage value of the 'old laboratory building' or obstruct important views to the heritage item from the main entrance to the former PCCS site |

| | | |
|---|---|--|
| | | (Roundabout at T.C. Frith Ave). |
| 3.4 Integrated Land Use and Transport | <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight</p> | <p>The direction applies as the planning proposal creates a business zone. The proposal is consistent with the principles of <i>Improving transport Choice – Guidelines for planning and Development</i>, and <i>The Right Place for Business and Services- Planning Policy</i>. The site is also directly adjacent to an existing B4 zone and is within close proximity to the Cockle Creek station.</p> <p>Note: The indicative cycleway on the Pasminco Area Plan traverses site H. The cycleway will be relocated in place of proposed B4 zone. An alternative route has been identified.</p> |
| 4.1 Acid Sulfate Soils | Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. | The direction applies as the planning proposal has the potential for class 5 Acid Sulphate Soils (ASS). The proposal is consistent with the direction as LMLEP 2014 includes ASS provisions that apply to the land, the proposal does not change the provisions and previous geotechnical studies undertaken as part of the remediation of PCCS site and Incitec site indicate no acid sulphate soils exist on the site following the remediation process. |
| 4.2 Mine Subsidence and Unstable Land | Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence. | The direction applies as the planning proposal is for land within a Mine Subsidence District. The proposal is inconsistent with the direction as consultation with Subsidence Advisory NSW has not been undertaken. As a result, Council will need to consult with Subsidence Advisory NSW as part of government agency consultation. |
| 4.4 Planning for Bushfire Protection | <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas</p> <p>(b) to encourage sound management of bush fire prone areas</p> | The subject site is not recognised to be bushfire prone however; a section of the Pasminco Cockle Creek Smelter approximately 1km to the east of site H is affected. Council may need to consult with the NSW Rural Fire Service authority in accordance with the direction. |
| 5.10 Implementation of Regional Plans | Give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. | The direction applies as the proposal is located within the boundary of the Hunter Regional Plan (HRP). The proposal is consistent with the HRP, as outlined in Section B question 3 of this document. |
| 6.1 Approval and Referral Requirements | Ensure that LEP provisions encourage the efficient and appropriate assessment of development. | The proposal is consistent with the direction as it does not contain any provisions that require concurrence, or identify development as 'designated'. |

Section C – Environmental, Social and Economic Impact

1. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

As the proposed site is devoid of vegetation, the rezoning and redevelopment of the land is not likely to adversely impact any critical habitat or threatened species, populations or ecological communities, or their habitats.

2. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The subject land is considered to be potentially contaminated due to previous industrial uses on the land. An audit report completed by Ramboll Environ Australia Pty Ltd (Appendix 2) recognises that Site H has been remediated in accordance with the Parcel 5 Remedial Action Works Plan Smelter Site Area and is now suitable for residential and other land uses (with restrictions on growing food and a moratorium on groundwater).

Council have agreed to progress the rezoning request for Site H concurrently with the assessment of the CCEMP. However, Council's support for the planning proposal is dependent on the auditor sign-off to the CCEMP, which is still in draft phase. It should be noted that until the CCEMP is approved and an auditor has signed-off to the CCEMP, Council will not proceed to public exhibition.

3. *How has the planning proposal adequately addressed any social and economic effects?*

Rezoning site H to enable urban development represents an efficient use of the land given that the land is no longer required for the Containment Cell or its ongoing management and has been remediated to residential standard. The proposed rezoning is consistent with adjoining B4 zoned land and will provide increased business and employment opportunities presenting positive social and economic outcomes for the area.

There are social implications considering the replacement of the indicative off road cycleway with the new B4 zone. An alternative route has been identified that addresses the social implications attributed to the loss of the indicative route traversing site H.

Section D – State and Commonwealth Interests

1. Is there adequate public infrastructure for the planning proposal?

The planning proposal is located within close proximity to existing infrastructure such as public transport, major roadways and has access to most utilities. It is not expected that the proposed rezoning will place significant additional demand on public infrastructure, services or utilities. Extensive liaison with infrastructure, utility and services and other relevant public authorities have been undertaken as part of previous rezoning's and development on the PCCS site (e.g. Bunnings).

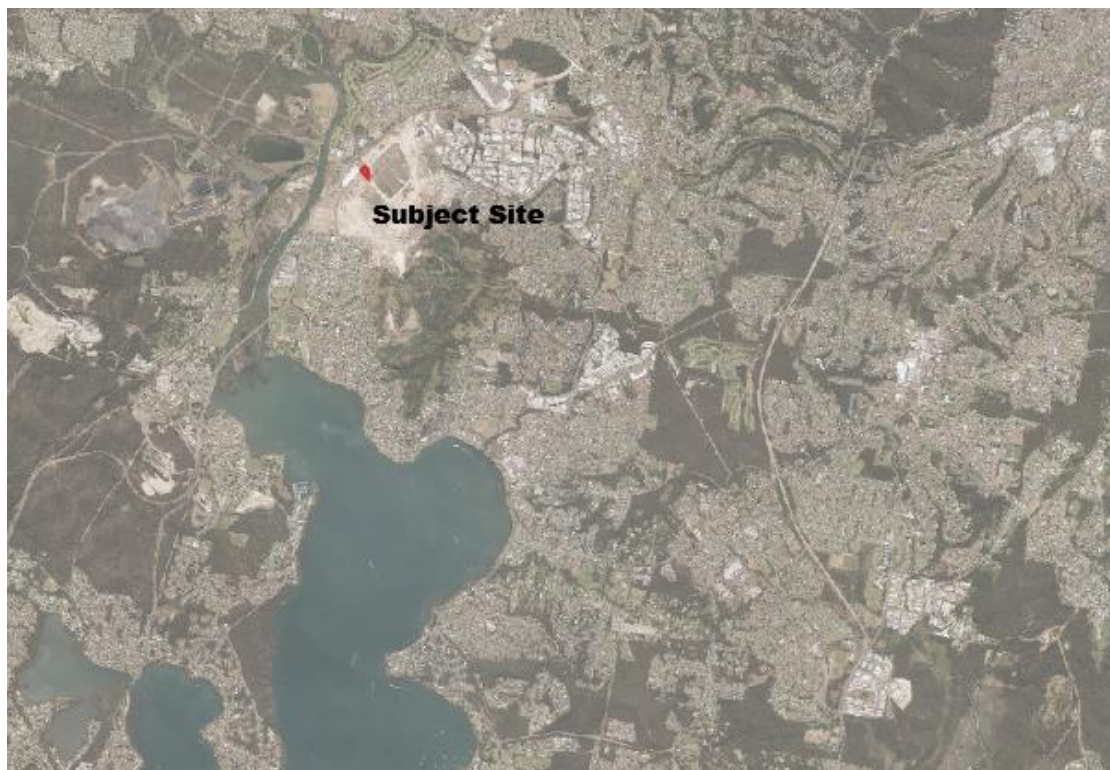
2. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Additional consultation with State and Commonwealth public authorities will be determined as part of the Gateway determination. It is recommended that consultation be held with the following authorities:

- The Secretary of the Department of Planning and Environment regarding consistency with Direction 1.1
- Subsidence Advisory NSW regarding consistency with Direction 4.2
- The Commissioner of the NSW Rural Fire Service regarding consistency with Direction 4.4
- The Environmental Protection Authority

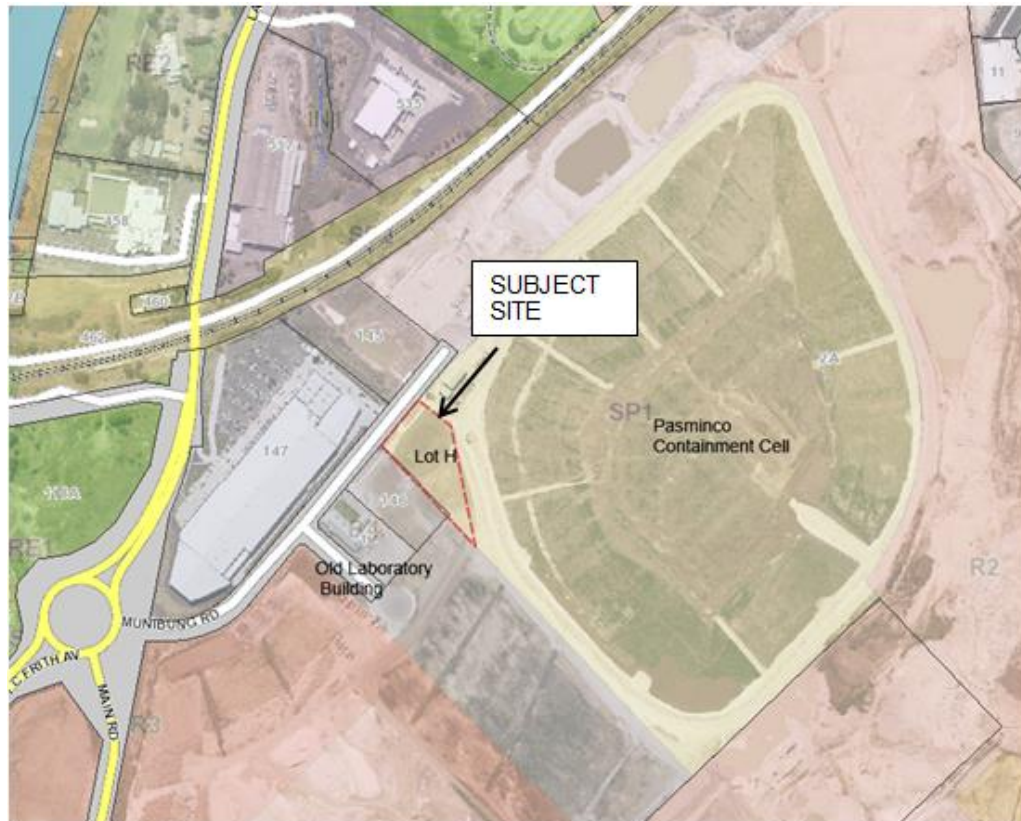
Part 4 - MAPPING

Map 1- Locality Map



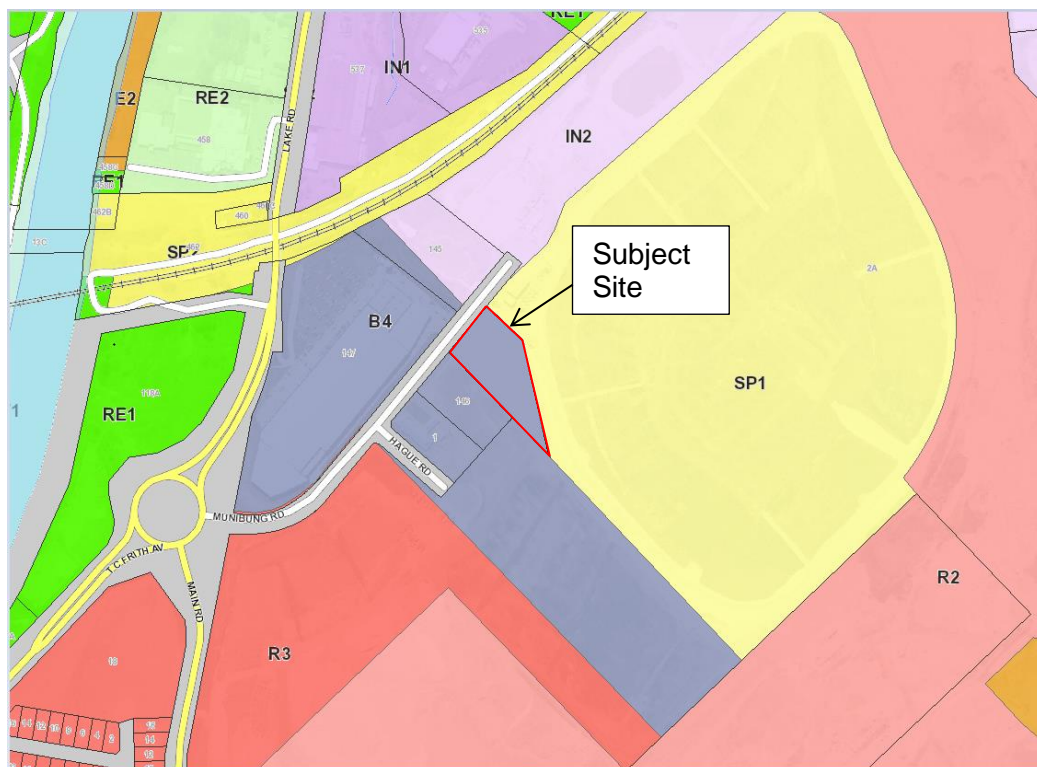
 Subject Land

Map 2- Aerial Photograph and Existing Land Zone Map

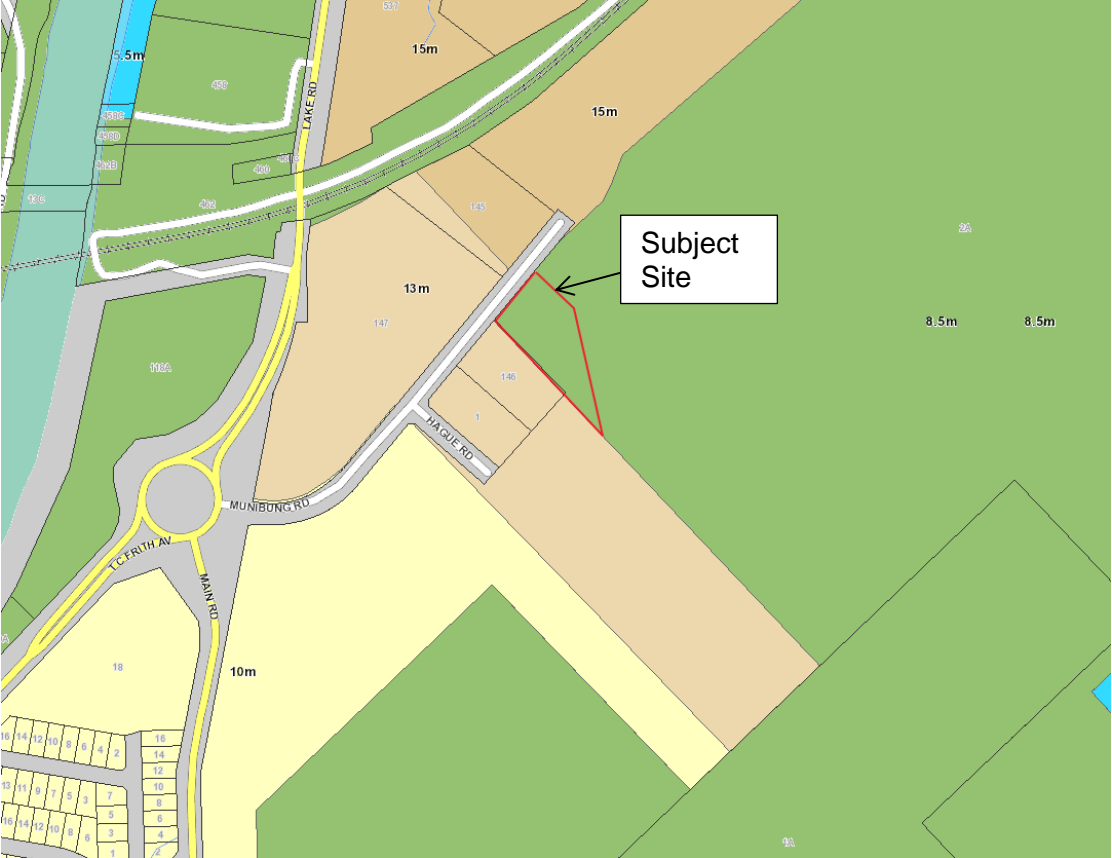


 Subject Land

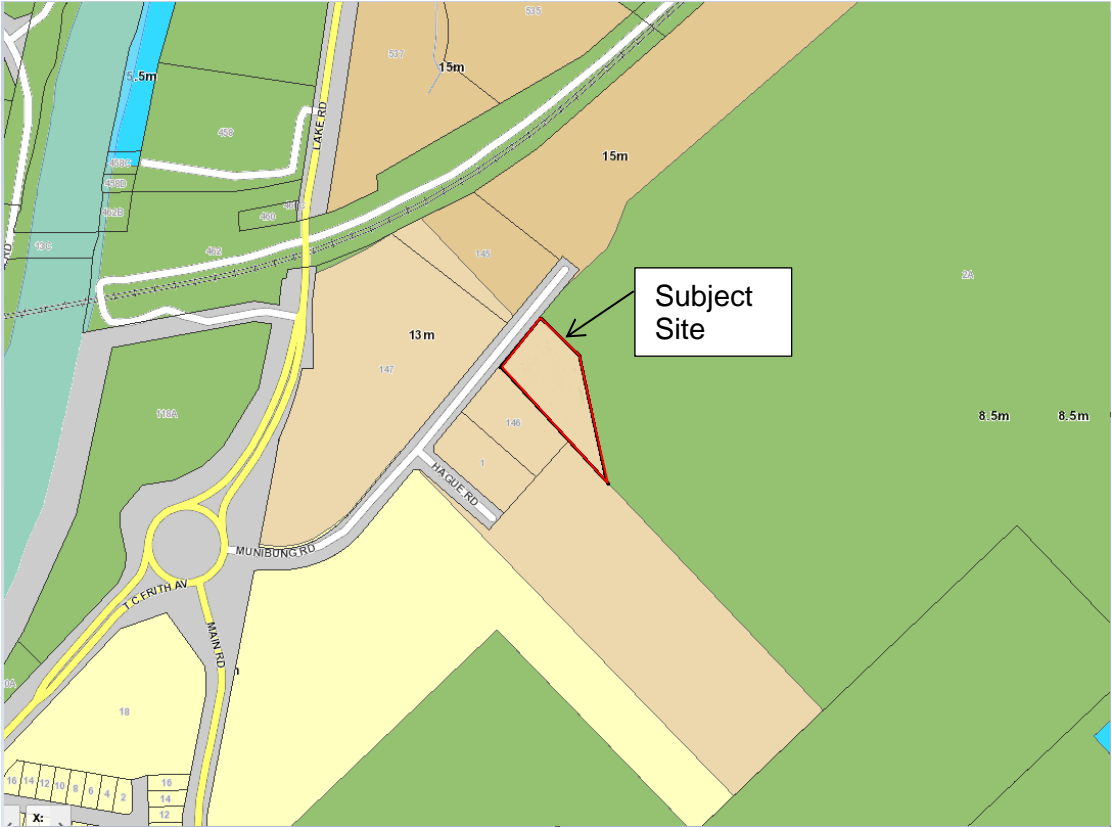
Map 3- Proposed Land Zone Map



Map 4- Existing Height of Building Map



Map 5- Proposed Height of Building Map



Part 5 – COMMUNITY CONSULTATION

Community consultation has not been undertaken to date. Community consultation will be determined as part of the Gateway determination and subject to the approval of the CCEMP. It is recommended that the planning proposal be exhibited for 28 days.

PART 6 – PROJECT TIMELINE

| Action | Timeframe |
|--|------------------------------|
| Gateway determination to proceed | One month (subject to CCEMP) |
| Government agency consultation | One month (subject to CCEMP) |
| Public exhibition (28 days) | 28 Days |
| Consideration of submissions | One month |
| Report public exhibition findings to Council | One month |
| Finalisation of LEP Amendment | One month |